

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

KEVIN CARTER,

Plaintiff,

v.

SALVATORE GIANNA, et al.,

Defendants.

Civil Action No. 17-2709 (MAS) (LHG)

**MEMORANDUM AND ORDER**

Plaintiff is proceeding, *in forma pauperis*, with a civil rights complaint filed pursuant to 42 U.S.C. § 1983. The Court previously proceeded the Complaint after screening pursuant to 28 U.S.C. § 1915(e)(2)(B). (Order, June 12, 2017, ECF No. 3.) Presently before the Court is Plaintiff's Amended Complaint, (Am. Compl., ECF No. 6), which the Court must screen under § 1915(e)(2)(B).

The Amended Complaint seeks to add one additional defendant, namely "NJ Transit Corporation." Plaintiff alleges that "[t]he NJ Transit employs [Defendant] Gianna and is responsible for the actions of [its] employees." (Am. Comp. 4.) There is, however, no *respondeat superior* liability in § 1983 actions. "[A government entity] cannot be held liable solely because it employs a tortfeasor—or, in other words, [it] cannot be held liable under § 1983 on a *respondeat superior* theory." *Caldwell v. Egg Harbor Police Dep't*, 362 F. App'x 250, 251 (3d Cir. 2010); *see Weigher v. Prison Health Servs.*, 402 F. App'x 668, 670 (3d Cir. 2010) (holding that a private corporation contracted by the state to provide traditional governmental services cannot be held liable under a theory of *respondeat superior* in a § 1983 suit). Because Plaintiff does not assert a cognizable claim against NJ Transit Corporation in the Amended Complaint, all claims against it are dismissed, and it is dismissed from the case.

IT IS therefore on this 18<sup>th</sup> day of January, 2018,

**ORDERED** that all claims against Defendant NJ Transit Corporation are hereby **DISMISSED WITHOUT PREJUDICE**, and Defendant NJ Transit Corporation is hereby **DISMISSED** from the case;

**ORDERED** that Plaintiff's time to serve Defendant Gianna is hereby **EXTENDED** to 90 days after the date of this Order; and it is further

**ORDERED** that the Clerk shall serve this Order upon Plaintiff by regular mail.

Michael A. Shipp  
**MICHAEL A. SHIPP**  
**UNITED STATES DISTRICT JUDGE**